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IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

MIKE HARRIS and JEFF DUNSTAN,)
individually and on behalf of)
a class of similarly situated)
individuals,   )
)
            Plaintiffs,   )
       vs.   ) Case No. 1:11-5807
)
COMSCORE, INC., a Delaware   )
corporation,   )
)
            Defendant.   )

     *** CONFIDENTIAL -- ATTORNEYS' EYES ONLY ***

          The videotaped deposition of DON
WALDHALM, called for examination, taken pursuant to
the Federal Rules of Civil Procedure of the United
States District Courts pertaining to the taking of
depositions, taken before JENNIFER L. WIESCH, CSR
No. 84-4528, a Notary Public within and for the
County of Will, State of Illinois, and a Certified
Shorthand Reporter of said state, at 500 West
Madison Street, Suite 2450, Chicago, Illinois, on
the 25th day of October, A.D. 2012, at 11:01 a.m.

JOb No: 27700

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22
   ALSO PRESENT:
23   MR. THOMAS S. CUSHING III,
      comScore Deputy General Counsel and
24   Privacy Officer;
25   MR. MARC BUHMANN, Legal Videographer.

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10   Trust Services Principles and
11   Criteria, and Illustrations, web
12   cover page, 2 pages
13 Exhibit 2   Trust Services Principles,   54
14   Criteria, and Illustrations,
15   85 pages
16 Exhibit 3   Expert Witness Report of Don   57
17   Waldhalm, 15 pages
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1   WALDHALM
2   THE VIDEOGRAPHER: Good morning. This is tape
3 number one of the videotaped deposition of Don
4 Waldhalm in the matter of Mike Harris and Jeff
5 Dunstan versus comScore, Incorporated, filed in the
6 United States District Court for the Northern
7 District of Illinois, Eastern Division, Case Number
8 11-cv-5807.
9   This deposition is being held at Quinn
10 Emanuel, located at 500 West Madison Street in
11 Chicago, Illinois, on October 25, 2012, at
12 11:03 a.m.
13   My name is Marc Buhmann from the firm of
14 David Feldman Worldwide, and I'm the legal video
15 op -- video specialist. The court reporter is
16 Jennifer Wiesch, also in association with David
17 Feldman Worldwide.
18   Will counsel please introduce themselves
19 for the record.
20   MR. SCHAPIRO: Andrew Schapiro for comScore.
21 With me is Robyn Bowland. And present in the room
22 is Tom Cushing, in-house counsel at comScore.
23   MR. BALABANIAN: My name is Rafey Balabanian.
24 I'm here on behalf of the Plaintiffs, Jeff Dunstan
25 and Mike Harris. With me is Ben Thomassen, also

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1   WALDHALM
2 representing the Plaintiffs.
3   THE VIDEOGRAPHER: Will the court reporter
4 please swear in the witness.
5   (WHEREUPON, the witness was duly
6   sworn.)
7   DON WALDHALM,
8 called as a witness herein, having been first duly
9 sworn, was examined and testified as follows:
10   EXAMINATION
11 BY MR. SCHAPIRO:
12   Q. Good morning. Can you please state your
13 full name for the record.
14   A. Sure. I'm Don Waldhalm.
15   Q. And can you spell that, please?
16   A. Don --
17   Q. No --
18   A. -- D- --
19   Q. -- just Waldhalm.
20   A. Okay. W-a-l-d-h-a-l-m.
21   Q. And, Mr. Waldhalm, what's your home
22 address?
23   A. 11509 Water Willow Avenue, Bradenton,
24 Florida.
25   Q. Have you ever been deposed before?

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2   A.   A firewall is generally a piece of
3 hardware, can be a piece of software. It's a broad
4 topic. It could be on your computer, it can be at
5 the edge of your network, it could be between the
6 engine and your feet --
7   **Q.   Not --**
8   A.   -- in the car.
9   **Q.   A firewall is something that's intended**
10 **to do what?**
11   A.   A lot of things. Generally it's intended
12 to keep incoming attacks from achieving their travel
13 into your network, like it's intended to hide the
14 interior of your network from the exterior. But
15 they're complex things that can do a lot.
16   **Q.   And do you know if comScore's source code**
17 **does anything with respect to firewalls?**
18   A.   I don't know that it does anything with
19 respect to firewalls. I don't think I -- I looked
20 for any of that, but expect that it's mostly going
21 to use the same channels with which it was
22 installed, so I don't think it's inside the scope.
23   **Q.   Inside the scope of what?**
24   A.   Of comScore's app.
25   **Q.   What's a root certificate?**

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2   A.   It's a security mechanism to identify
3 some particular permission.
4   **Q.   Does comScore's software leave root**
5 **certificates on panelists' computers?**
6   MR. BALABANIAN: Object to form.
7 BY THE WITNESS:
8   A.   I don't know.
9 BY MR. SCHAPIRO:
10   **Q.   Did you see modules in the code that**
11 **leave root certificates on panelists' computers?**
12 **And if so, which ones?**
13   A.   I can't recall. It doesn't --
14   **Q.   Is this statement true or false: All**
15 **traffic from computers running comScore's program is**
16 **rerouted through comScore's servers?**
17   MR. BALABANIAN: Object to form.
18 BY THE WITNESS:
19   A.   All --
20 BY MR. SCHAPIRO:
21   **Q.   All traffic from computers running**
22 **comScore's program is rerouted through comScore's**
23 **servers?**
24   MR. BALABANIAN: Object to form.
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2 BY THE WITNESS:
3   A.   No, that would not be true. There is
4 traffic if -- if the software is installed, it's
5 only going to catalog and record the traffic that
6 it's interested in.
7 BY MR. SCHAPIRO:
8   **Q.   So it doesn't actually reroute traffic to**
9 **comScore and then back?**
10   MR. BALABANIAN: Object to form.
11 BY THE WITNESS:
12   A.   That's correct.
13 BY MR. SCHAPIRO:
14   **Q.   Does comScore's software intercept**
15 **packets traversing local wireless networks?**
16   MR. BALABANIAN: Object to form.
17 BY THE WITNESS:
18   A.   It does not intercept packets. It reads
19 the headers on the packets to determine whether it
20 wants to catalog them or not.
21 BY MR. SCHAPIRO:
22   **Q.   What's your basis for saying that?**
23   A.   I can't recall the module, but I looked
24 at the code that counts how many bytes of data you
25 use for a particular program. And looking at that

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2 issue, that's the part I can remember right now.
3 And so it's -- it's listening, but it doesn't
4 intercept anything, it doesn't stop anything. And,
5 you know, it --
6   **Q.   Why don't we -- if you're finished with**
7 **your answer, why don't we take a break, but go**
8 **ahead, I won't cut you off.**
9   A.   I think. I'm just trying to be clear.
10   MR. SCHAPIRO: All right. Why don't we take a
11 break. I may not have a whole lot more.
12   MR. BALABANIAN: Okay.
13   THE VIDEOGRAPHER: We are going off the video
14 record at 2:36 p.m.
15   (WHEREUPON, a recess was had.)
16   THE VIDEOGRAPHER: We are going back on the
17 video record at 2:43 p.m.
18 BY MR. SCHAPIRO:
19   **Q.   Mr. Waldhalm, you mentioned someone had**
20 **helped you named Stu, and I apologize, I'm**
21 **forgetting his last name again.**
22   A.   Gorton.
23   **Q.   What -- who was he, and what was his**
24 **role?**
25   A.   I -- when we first got the comScore code,

29 (Pages 110 to 113)